

REMARKS

I. Status of the Claims

Claim 19 is amended to adopt the form of an independent claim, importing the limitations of claim 18, except for the reference to TbRa3, 38kD, and Tb38-1. No new matter is introduced.

II. Claim Rejections

Obviousness-Type of Double Patenting

The only remaining rejection in the Office Action of February 13, 2006, is the obviousness-type of double patenting rejection of claim 19, which is allegedly unpatentable over claims 1-3 of U.S. Patent No. 6,592,877 ("the '877 patent"). Applicants respectfully traverse the rejection in light of the present amendment.

The subject matter of claims 1-3 of the '877 patent is an isolated fusion protein comprising four *M. tuberculosis* antigens: TbRa3, Tb38-1, TbH4, and 38kD. As amended, claim 19 is directed to a composition that contains a fusion protein comprising at least two of *M. tuberculosis* antigens selected from the group consisting of MTb81, Mo2, FL TbH4, HTCC#1 (Mtb40), TbH9, MTCC#2 (Mtb41), DPEP, DPPD, TbRa35, TbRa12, MTb59, MTb82, Erd14 (Mtb16), FL TbRa35 (Mtb32A), DPV (Mtb8.4), MSL (Mtb9.8), MTI (Mtb9.9A, also known as MTI-A), ESAT-6, α -crystalline, and 85 complex. Since the antigens TbRa3, 38kD, and Tb38-1 are no longer within this group, Applicants submit that the composition of claim 19 cannot be obvious over the fusion protein of TbRa3, Tb38-1, TbH9, and 38kD, which is claimed in the '877 patent.

The withdrawal of the obviousness-type double patenting rejection is therefore respectfully requested.

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Reply to Office Action of February 13, 2006 and Advisory
Action of October 12, 2005

PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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